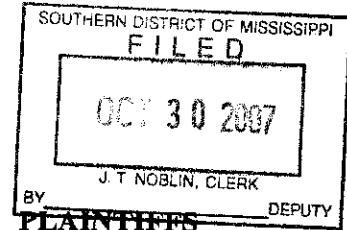


IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
HATTIESBURG DIVISION

STATE FARM FIRE AND CASUALTY COMPANY  
and STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY



vs.

CIVIL ACTION NO.: 2:07cv188DCB-MTP

JIM HOOD, IN HIS OFFICIAL CAPACITY  
AS ATTORNEY GENERAL OF THE STATE  
OF MISSISSIPPI

DEFENDANTS

**EMERGENCY MOTION BY NON-PARTY TO QUASH  
SUBPOENA AND MOTION FOR SANCTIONS**

**Expedited Hearing Requested Pursuant to  
Local Rule 7.2(H) and Local Rule 37.2**

Comes now, a non-party to this case, the attorney Derek A. Wyatt, by and through undersigned counsel, and would demonstrate to this Court that:

1. A subpoena commanding Mr. Wyatt to testify in the above-captioned case was personally delivered to him on October 29, 2007. See subpoena and mileage check attached as Exhibit A.
2. The subpoena is void on its face for requiring Mr. Wyatt to travel more than 100 miles per F.R.C.P. 45(c)(3)(A)(ii).
3. The subpoena is void on its face as it was issued from a Court with no personal jurisdiction over Mr. Wyatt.
4. The subpoena is void on its face as it "fails to allow reasonable time for compliance" per F.R.C.P. 45(c)(3)(A)(i), as Mr. Wyatt was only afforded 3 days notice.
5. The subpoena is void on its face as it did not tender sufficient witness and mileage fees to Mr. Wyatt.

6. The subpoena is void on its face because it is intended only to harass counsel for the Plaintiffs in a fraud case against State Farm, and requests disclosure of privileged information in contravention to F.R.C.P. 45(c)(3)(A)(iii). The subpoena was calculated to conflict with an important deposition Mr. Wyatt was already scheduled to take on November 1, 2007, in a fraud case against State Farm.

7. The subpoena is void as it constitutes an "undue burden" under F.R.C.P. 45(c)(3)(A)(iv).

8. Further, sanctions are warranted for the Defendant's abuse of the subpoena power and in forcing this non-party to respond to the subpoena.

9. For these reasons, non-party Derek Wyatt requests the Court quash the subpoena.

10. In further support, the Plaintiff has submitted a Memorandum which will provide further factual and legal support of his argument. The Plaintiff requests an expedited consideration of this matter pursuant to Local Rule 7.2(H) and Local Rule 37.2, which makes it incumbent upon a party to seek a Court order regarding a motion to quash.

THEREFORE, premises considered, Movant requests that the Court order the subpoena quashed and impose costs and expenses for abuse and harassment as alleged herein.

By: s/Mary E. McAlister  
Mary E. McAlister (MSB No. 2170)

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 29, 2007, I served the foregoing, via email, to the following:

The Chambers of the Honorable Michael T. Parker  
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This the 29<sup>th</sup> day of October, 2007.

s/Mary E. McAlister  
Mary E. McAlister (MSB No. 2170)